



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 24 2017

Mr. Charles Snavelly
Secretary
Energy and Environment Cabinet
12th Floor, Capital Plaza Tower
500 Mero Street
Frankfort, Kentucky 40601

Dear Mr. Snavelly:

In a letter to you dated September 16, 2016, the United States Environmental Protection Agency approved various revised water quality standards that had been established by the Commonwealth of Kentucky through amendments to the Kentucky Water Quality Regulations at Chapter 401 KAR 10:026, 10:029, 10:030 and 10:031. In its letter and supporting documentation, the EPA noted that it was taking 'No Action' on the removal of the acute criterion for selenium as this action was subject to consultation with the U.S. Fish and Wildlife Service (FWS) under the Endangered Species Act and that the Agency would notify the Commonwealth of the results of that consultation.

On June 6, 2017, the EPA submitted a biological evaluation to the FWS regarding Kentucky's removal of the acute criterion for selenium. On July 5, 2017, the FWS concurred with the EPA's "may affect, but not likely to adversely affect" determination (copy enclosed). The EPA's consultation with the FWS did not identify any deficiencies with the removal of the acute selenium criterion. Therefore, pursuant to Section 303(c) of the Clean Water Act (CWA), I am approving the removal of the acute selenium criterion.

As part of the EPA's original analysis, the EPA raised a series of questions to Kentucky regarding implementation of the selenium criteria without an acute value. Specifically, the EPA was concerned with permit limit derivation, permit compliance, and monitoring and assessment activities. The Commonwealth addressed all of these issues and the EPA will continue to monitor implementation of the overall selenium criteria to assure that all activities are consistent with the CWA.

Should you have any questions, please contact me at (404) 562-9469 or have a member of your staff contact Mr. Joel Hansel at (404) 562-9274.

Sincerely,

A handwritten signature in dark ink, appearing to read "MSW", with a long, sweeping horizontal line extending to the right.

Mary S. Walker
Director
Water Protection Division